

MINUTES  
**AMENDED**

Policemen's Pension and Trust Relief Fund  
Thursday, September 11, 2008  
9:00 a.m.

On Thursday, September 11, 2008, at 9:00 a.m. a meeting of the Board of Trustees of the Policemen's Pension and Relief Fund of the City of Little Rock, Arkansas was held in the Sister Cities Conference Room at City Hall.

PRESENT:	Bruce Moore	-Chairman
	Farris Hensley	-Secretary
	Sara Lenehan	-Treasurer
	Brad Furlow	-Member
	Lee Harrod	-Member
	Mike Lowery	-Member
	Albert Miller	-Member

ABSENT:       None

Also present were Mr. Alex Jordan and Mr. Bo Brister of Stephens Capital Management who are Financial Consultants for the Fund, Mr. John Peace of the Dover Dixon Horne Law Firm who are Legal Consultants for the Fund, Mr. Roger Smith who is a Government Relation Lobbyists for the Fund, Mr. Steve Young, Mr. Donald Jones and Mr. Larry Ironside who are retired members of the Fund, Mr. Ralph Jackson Jr. who is a son of Mr. Ralph Jackson Sr. a retired member of the Fund, and Mrs. Kathy Lindsey who is a Pension Fund Administrative Technician.

Mr. Moore called the meeting to order at approximately 9:00 a.m., certifying that a quorum of the Board was present, and that the Media had been properly notified in a letter of September 2, 2008 to the Arkansas Democrat-Gazette.

Copies of the August minutes had previously been submitted to Board members. During their review, Mr. Harrod told the Board that he would like an amendment on page two of the minutes, indicating that Mr. Moore had stated, "that he serves on several Boards, as does other members of the Pension Board, and has never been part of a Board that distributes minutes to the general public or membership **prior to the minutes being approved by the Board**".

Mr. Hensley said that he did not have an objection to the amendment because it was factual in nature, however did not include it in the minutes because they are not a verbatim record of the meeting, nor is it reasonable to include every statement made. Additionally, he said that he assumed that it was general knowledge that Mr. Moore serves on numerous Boards.

Following discussion, Mr. Harrod made a motion to approve the August minutes with the above referenced amendment. Mrs. Lenehan seconded the motion and it passed unanimously.

In regard to the matter of approval and distribution of monthly Pension minutes, Mr. Moore told the Board that he would like to hear individually from each member of the Board as well as retired members in attendance, who would like to address the matter.

Mr. Steve Young addressed the Board, and said that he is a former member of the Pension Board, and wanted to thank those currently serving for their diligent service. He said that he has particularly appreciated the Pension minutes, and wants to continue receiving them in a timely manner, without further delaying their distribution.

Mr. Donald Jones addressed the Board and said that most members are unable to attend meetings, and therefore elects members of the Board to conduct business on their behalf. He said that he follows the Boards activity very closely, and has received numerous emails opposing past actions of the Board when discontinuing distribution of draft meeting minutes to members, and that any additional delay of getting such information to members is unacceptable.

Mr. Moore first distributed to Board members copies of documents from two-(2) other Boards illustrating that those particular Boards do not distribute draft copies of meeting minutes to their members. He disputed the assertion that distributing copies of only Board approved meeting minutes would result in a sixty-(60) day delay in the distribution of information to members, and said that such a delay was also not acceptable to him. He said that he envisioned distributing approved meeting minutes within a matter of days following the monthly meeting.

Mr. Harrod told the Board that he is also a member of the Pension Management Trust Fund who meets every three-(3) months, and their meeting minutes are not sent out until approved at the following meeting, which is three-(3) months later. He asked Mr. Hensley who is Chairman of the Arkansas Fire and Police Pension Review Board (PRB) how distribution of their meeting minutes are handled, however Mr. Hensley told Mr. Harrod that he would address that question when it was his turn to comment concerning the matter. Mr. Harrod also said that he did not understand how distribution of Board approved meeting minutes would result in as much as a sixty-(60) day delay from the time of the meeting.

Mr. Furlow told the Board, that he has been Secretary of the Police Pension Board in the past, and because the Secretary is also an active participating member of the Board he does not believe it is reasonable to require him to work on such a narrow time schedule, as would a paid city employee who prepares meeting minutes for other City Boards. He said that until the August meeting, to his knowledge there had never been a problem with distributing draft copies of the meeting minutes, and that he was confused as to exactly what the problem is. Additionally, he said that he clearly understood how the delay of distributing only Board approved copies of the meeting minutes would result in up to a sixty-(60) day delay in the dissemination of information.

When addressing the Board, Mr. Lowery said that he was unable to attend the August meeting due to the Birth of a Grandson, however explained that everyone clearly has understood that past minutes are draft copies, and that he does not have a problem with continuing the process of sending them to all members. He said that it seemed to him that sending only Board approved copies of meeting minutes would result in an additional delay, and that would be unacceptable.

Mr. Miller told the Board, that he too did not understand the above referenced sixty-(60) day delay, and thought that thirty-(30) days would be the maximum delay. He gave an example of the August meeting that was conducted on August 14, 2008, and said that he had received his copy of the draft minutes on September 2, 2008, which was twenty-(20) days after the meeting, then (today) on September 11, 2008 the August minutes were approved. He further said that there has been no past attempt to conceal information from members.

Mrs. Lenehan told the Board that she did not believe meeting minutes should be distributed until final Board approval, and that every Board she has served on, or Board meeting that she has attended conducts such business in that manner. She too, said that she did not believe that such distribution would result in a sixty-(60) day delay.

Mr. Hensley told the Board that there had been a lot of discussion concerning the matter, and that he wanted to put it all into perspective. He said that the issue first began during the August meeting at which time Mr. Harrod and Mr. Miller **brought to the attention of the Board, after having received complaints from officers that called**, that Mr. Hensley had included in the meeting minutes financial information that had been discussed during the meeting from a previous USA Today newspaper article, and although the Board ultimately voted unanimously with an exception of Mr. Harrod to approve the minutes without censorship, the discussion immediately turned to distributing draft copies of meeting minutes. He said that approximately fifteen-(15) years ago after becoming Secretary of the Board, he began for the first time sending meeting minutes of the previous meeting along with an agenda for the upcoming meeting to all members of the Fund, and that during the subsequent fifteen-(15) year period of time up to, and including the current meeting there has never been a substantial amendment made to the minutes. He said that all members are aware that they are receiving "draft" copies of minutes, and are always notified in the following months meeting minutes when amendments are made. He (Mr. Hensley) addressed a previous comment in regard to distribution of only approved meeting minutes of Little Rock City Board meeting, by explaining that such meetings are televised live and there are no members in which to distribute them to. He (Mr. Hensley) then addressed a previous question of Mr. Harrod in regard to distribution of PRB meeting minutes, and said that the PRB is a regulatory State oversight Board for old stand alone Police and Fire Pension Funds, and have no individual members to send meeting minutes to, however draft minutes are sent to the only members, who are in fact the Board members. Mr. Hensley said that if the monthly meeting packet continues to be mailed near the end of the month in the normal fashion, it would be nearly sixty-(60) days before members received approved meeting minutes. An example used was that September minutes would accompany the November agenda.

Following discussion, Mr. Hensley made a motion to continue sending clearly marked draft copies of the monthly meeting minutes to all members. Mr. Furlow seconded the motion, and the vote was recorded as For: Mr. Furlow, Mr. Hensley, Mr. Lowery and Mr. Moore, Against: Mr. Harrod, Mrs. Lenehan and Mr. Miller. The motion passed.

Mr. Hensley told the Board that their aged antilog recording equipment is outdated, and that he had asked Mrs. Lindsey to prepare information on a new digital recording and transcribing system. He explained that such a system would provide much better voice quality, and storage with the ability to download, and transfer audio of the meetings via internet email.

Following discussion Mr. Harrod made a motion to approve up to \$800.00 for the purchase of a new recording system. Mr. Miller seconded the motion and it passed unanimously.

Mr. Jordan and Mr. Brister of Stephens Capital Management gave an August 2008 financial report, and said that on August 31, 2008, the market value of the total Fund was \$58,702,762.40. Additionally, \$700,714.04 was held in the Metropolitan Bank Checking Account. This represents an increase in the account balance of \$56,567.00 since July 31, 2008. The component of this change was income of \$90,120.00. There were net contributions/withdrawals of \$599.11. The Funds overall market rate of return for the month of August 2008 was 0.12%, and a negative (4.60%) year-to-date through August 31, 2008. On August 31, 2008, \$24,734,326.15 was allocated to DROP.

Mr. Jordan reported on the financial markets, and in regard to lending problems said that he would not use the term "bail out", however the Federal Government stepped in supporting two very large lending institutions: Fannie Mae and Freddie Mac, with a 1.64 trillion dollar total debt load, and that with all other guarantees will total close to 3.5 trillion. He said that it is a serious situation that will probably worsen, however the Government had little choice because without such support the world financial markets would have otherwise totally collapsed. Mr. Jordan said that they will continue to closely monitor the situation and that although it will not be repaired overnight, it does tend to build a base in regard to the housing situation.

Mr. Jordan said the equity market would continue to be very difficult for at least the next three (3) to four (4) quarters, and that the Fund must be more defensive by investing any money "taken off the table" in low interest bearing instruments.

Mr. Jordan provided a brief report concerning Capitol Point Partners that is an alternative lending organization, and is the most recent investment made by the Fund. He said that it is performing very well with a quarterly distribution of over eight percent (8%). He said that they have acquired additional funding, and are expected to perform well during the current challenging financial lending markets.

Mr. Jordan reported that Mr. Middleton who recently underwent heart surgery is doing well, and thanked the Board on Mr. Middleton's behalf for keeping him in their thoughts and prayers.

There was a lengthily discussion concerning the financial impact that the approximate \$25,000,000.00 currently held in Drop accounts has on the total Fund assets. There have been years in the past that the total Fund has made money from DROP accounts, and other years that it has lost. Discussion included the impact that a nine percent (9%) DROP interest rate that was recently certified by the State Actuary to be paid during the calendar year of 2009 will have on the total Fund. Upon request of the Board, Mr. Jordan said that he would work with Mr. Carreiro who is a State Actuary to historically analyze the Drop impact on the Fund, and make future projections of the impact it may have.

Mr. Smith reported concerning legislative matters, and said that the State Legislative Research Department has not yet completed the proposed legislative drafts; however he should soon be receiving them. He then reviewed the following matters that will be drafted into a bill format for introduction:

*Amend the current State Statute to make annual ethics reporting for Municipal Police Pension Fund Board Members consistent with State Ethics guideline reporting for other local, county, and State Boards and Commissions.*

*Amend the current State Statute, to provide specific language allowing stored property to be auctioned via internet sales.*

*Amend the current State Statute to establish an effective date of July 1, 2007, in regard to benefits paid, to former spouses upon the death of a member, via Qualified Domestic Relation Orders (QDRO).*

Mr. Smith reported that statutory authority to withhold renewal of driver's license until outstanding fines are paid currently exists, and that later during the month he will be visiting with District Judges in regard to proposed legislation to withhold renewal of automobile license.

At the August meeting, Mr. Smith reported that the issue involving insurance premium tax allocations is currently pending in the Local Police and Fire Retirement System (LOPFI), Interim Study Committee of which Mr. Hensley is a member. He (Mr. Smith) said that the issue relating to local Police Pension Funds such as Little Rock is to capture a portion of Insurance Premium Tax money to financially assist Police Pension Funds who wish to voluntarily seek a three percent (3%) compound Cost of Living (COLA) merger with LOPFI. He recommended that the issue be postponed until the committee concludes their work, and makes a final recommendation.

At the current meeting, Mr. Smith reported that two (2) members of the Interim Study Committee of which Mr. Hensley was included, along with the Executive Director of the Local Police and Fire (LOPFI) Pension System, and a State Actuary recently met with Governor Mike Beebe in regard to pension fund contribution costs for cities, matters affecting the LOPFI System, and closed Police and Fire Pension Funds across the State such as the Little Rock Funds. Although the Governor was adamantly opposed to providing additional State funding to Cities for use toward their Pension Fund contributions, he did listen with interest to problems facing closed local Pension Funds, and a proposal to expand the premium tax allocation formula to capture additional excess funding over time to provide the above referenced COLA, or an increase in base benefits for Pension Funds who wish to merge with LOPFI. Mr. Smith emphasized the fact that such problems will not be eliminated during any single Legislative Session, however will be an ongoing legislative process.

Mr. Peace reported concerning the lawsuit in regard to past benefit increases, and said that Mr. Overstreet has a meeting scheduled for September 16, 2008 with attorneys for the plaintiffs' to determine if an agreement is possible in regard to facts that are not in dispute, verses which facts will need to be tried before the court. A date still has not been set for depositions or trial. The matter was tabled until October.

Mr. Peace reported on the matter concerning ten percent (10%) of probation fees, and said that an Arkansas Attorney General (AG) opinion has not yet been submitted, but should be forthcoming. The matter was tabled until October.

Mr. Peace reported concerning the amended Qualified Domestic Relation Orders (QDRO) of Mr. Albert Miller, by stating that the issue has now been resolved, and is in the process of clarifying

language to be consistent with the original intent of both parties, and will then be submitted to the Board for final approval. The matter was tabled until October.

Mr. Peace asked that the matter concerning his drafting of a letter certifying disability pension for members who retired, and are receiving disability pensions be tabled until October. The matter was tabled.

Mr. Moore addressed the matter concerning District Court reporting to the State of individuals with outstanding fines, and said that Little Rock District Courts are currently reporting such individuals in regard to suspension of their driver licenses.

Previously submitted to Board Members were copies of the un-audited balance sheet reports year-to-date through the months of June 2008, July 2008 and August 2008. The August report indicated that on August 31, 2008, the total account fund balance was approximately \$59,501,104.91, of which \$24,734,326.15 was allocated to DROP. The net unrealized gain (loss) decrease year to date through April 30, 2008, was (\$5,019,318.00). When including benefit payments, and other related cost, the total gain (loss) year to date through August 31, 2008 was (\$6,538,726.96).

Also previously submitted were copies of the August 2008 expense and legal fee report. Total expenditures excluding benefit related expenses, were \$4,997.88 for the month of August, and \$45,467.18 calendar year through August 31, 2008. Legal fee expenditures paid during the month of August 2008 were \$1,855.40, and totaled \$29,183.79 year to date through August 31, 2008.

Following review of the August 2008 un-audited balance sheet report, and August 2008 expense and legal fee report, Mr. Harrod made a motion to approve the June, July and August un-audited balance sheet reports, and the August expense and legal fee report as submitted. Mr. Hensley seconded the motion and it passed unanimously.

Mrs. Lenehan informed the Board that further review had been conducted in regard to IRS requirements of 1099 form reporting for Board Members. She said that anything in excess of \$600.00 per calendar year for services rendered must be reported on a 1099 form.

The matter concerning a procedure for requesting opinions from the Board's Legal Counsel was tabled until October.

Mr. Hensley informed the Board that a "thank you" card had been received from Mrs. Peggy Griffith who is a widowed member of the Fund. She thanked all members of the Board for the Police Supplement check, and their efforts while serving on the Board.

Mr. Hensley addressed the Board in regard to an incident that occurred in the Board meeting room immediately following the August 14, 2008 Police Pension Board meeting, and read the following statement into the minutes of the current meeting:

*Although I seriously considered not formally addressing the above referenced matter, I have decided to do so for a couple of reasons. First, is to clarify the involved circumstances by clearly stating what occurred. Second, is by setting forth the involved circumstances, members of the*

*Board, and more importantly members at large may determine for themselves if this is the type of professional Board representation they desire.*

*Immediately following the last meeting of August 14, 2008 while Mr. Furlow and I were putting up the recording equipment, and while Mrs. Lindsey was also present in the same Board Room, Mr. Miller, who I have considered a personal friend for many years, suddenly approached, and said that he wanted to talk to me. When acknowledging him, he said that he did not appreciate me making a particular statement during the meeting. (I will not at this time state the specific details because I do not believe that it is of particular importance, let it just suffice to say that the taped record of the meeting clearly establishes that I made no such direct statement.) However, when I responded by telling him that I did not make such a statement, and pointed to the Tape Recorder and told him that it was on the tape, he (Mr. Miller) moved much closer to me, and while just inches from my face with his finger an inch or two from my nose, threatened to, "Kick my ---." Rather than to respond in a manner that I normally would have, I just told him (in no uncertain terms) to get away from me. At the time, I could only think of the "Public" attention that a physical encounter in a City Board Room would create and the embarrassment to the entire Fund that two Board members fighting would cause.*

*Fortunately, Mr. Furlow was nearby, and after quickly intervening managed to get Mr. Miller to move away from me. After an exchange of words between Mr. Miller and I, that honestly should not be repeated, he left the room.*

*I absolutely regret having to spend time and energy on such matters that ultimately stand in the way of very important work that needs to be done. I just strongly believe that anyone holding such a position of trust should be held accountable for such erratic, irrational and unprofessional behavior. I have served the members of this Fund for twenty-two (22) years, and although differences of opinions do arise, they have always been handled in what I would consider a professional manner.*

*This incident was most unfortunate, and although some may pass it off as just a personal "tiff", nothing could be further from the truth because it undermines the entire Board's integrity, and I believe that it would be irresponsible on my behalf, if I failed to bring it to the attention of members who will in the future ultimately be most affected by such behavior.*

*My desire is to simply bring it to the attention of members, and get back to the Pension Funds important work at hand. Hopefully, in the future differences of opinions can be handled in a much more dignified and respectful manner.*

Mr. Furlow told the Board that he wanted to address the matter, because he was present during the altercation. He said that he has probably served on the Board longer than any other member, and over the years has attended many meetings that involved heated discussions that resulted in tempered anger, and hurt feelings, but has never seen a member of the Board assault another member of the Board in the Board room. When asked, Mr. Furlow said that Mr. Miller did not touch Mr. Hensley, and that is the reason that it was an assault and not a battery. He (Mr. Furlow) explained that the account previously referenced by Mr. Hensley was accurate, and that he believed that the Board deserves an apology from Mr. Miller, and some assurance that another incident of a similar nature will

not occur in the future. Mr. Furlow said that he was very concerned that Mr. Miller was so provoking over such a seemingly minor discussion during the meeting.

Mr. Miller stated for the record that he disagreed with the statement of Mr. Hensley, however said that he was involved in an altercation that he should not have been involved in, and apologized for his involvement. He said Mr. Hensley pushed his (Mr. Miller's) finger from away from his face, and that in his opinion, Mr. Hensley was equally responsible, and when calling him after the meeting, Mr. Hensley failed to return his telephone call.

Mr. Hensley said that he had done nothing to provoke the incident, did not touch Mr. Miller, was not an aggressor in any way, and exercised tremendous restraint. He said that in his opinion members of the Fund should be made aware of such outrageous behavior, and then business of the Board should continue.

Mr. Moore said that hopefully the Board would now move forward in a spirit of mutual respect and decorum.

Mr. Lowery made a motion to approve the retirement application of Mr. Mark Stafford effective September 13, 2008 in the monthly amount of \$2,225.04. The motion was seconded by Mr. Harrod, and passed unanimously.

Upon conclusion of Pension Board business, Mr. Lowery made a motion to adjourn the meeting. The motion was seconded by Mrs. Lenehan and passed unanimously. The meeting adjourned at approximately 11:34 a.m.

Respectfully submitted,

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Farris Hensley, Secretary